WALLER LANSDEN DORTCH & DAVIS

A PROFESSIONAL LIMITED LIABILITY COMPANY NASHVILLE CITY CENTER

BOST OFFICE BOX 19896 POST OFFICE BOX 198966

NASHVILLE, TENNESSEE 37219-8966

(615) 244-6380

809 SOUTH MAIN STREET
P. O. BOX 1035
COLUMBIA, TN 38402-1035 (931) 388-6031

FACSIMILE (615) 244-6804 WWW.WALLERLAW.COM

D. BILLYE SANDERS (615) 252-2451 BSANDERS@WALLERLAW.COM

December 4, 2000

VIA HAND DELIVERY

D. David Waddell **Executive Secretary** Tennessee Regulatory Authority 460 James Robertson Parkway Nashville, Tennessee 37243-0505

Re:

Joint Application of the City of Kingsport and Tengasco Pipeline Corporation for Approval of City Resolution and City Ordinance; Docket No. 00-00537

Dear Mr. Waddell:

Enclosed you will find the original and thirteen copies of the responses to data requests of the TRA staff in the above referenced docket. The answers to questions 3, 4, 5 and 6 contain confidential information and are filed under seal. I have enclosed the original and thirteen copies of a proposed Protective Order. Mr. Conner has not yet seen the Protective Order however it is being served on him with this filing.

Sincerely, D. Billye Sanders

D. Billye Sanders

DBS/klp

Enclosures

cc:

Joe Conner, Esq. J. Michael Billingsley, Esq. Cary Sorensen, Esq.

Confidential
on Tile

BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

		12 2 m P 00000.
IN RE:)	
JOINT APPLICATION OF THE CITY OF KINGSPORT AND TENGASCO PIPELINE CORPORATION FOR APPROVAL OF CITY RESOLUTION)))	Docket No. 00-00537

TENGASCO PIPELINE CORPORATION'S and THE CITY OF KINGSPORT'S ANSWERS TO QUESTIONS OF THE TENNESSEE REGULATORY AUTHORITY

Following are Tengasco Pipeline Corporation's and the City of Kingsport's answers to the questions of the Tennessee Regulatory Authority, in order to assist the Authority in its consideration of the Joint Application of the City of Kingsport and Tengasco Pipeline Corporation for Approval of City Resolution. The City of Kingsport has answered questions 7, 8, and 9; and Tengasco Pipeline Corporation ("Tengasco") joins in those answers, and Tengasco also answers the remaining questions in that the factual matters addressed therein are primarily, if not exclusively, within the knowledge of Tengasco Pipeline Corporation.

1. Provide the Authority with a map showing the proposed pipeline route, detailing property lines, rights of way, highways crossed, and locations of other large volume industrial customers as well as Eastman Chemical Company ("Eastman").

ANSWER:

Enclosed is a map of the pipeline route in Kingsport, Sulllivan County that is the subject of this application. This map does not indicate the exact position of large volume industrial users of natural gas other than Eastman Chemical Company, because Tengasco has not contracted with any entity other than Eastman Chemical for transportation of gas, and no other such large volume user is a customer of Tengasco at the present time. Also enclosed is a letter sent to J. Michael Billingsley,

City Attorney for the City of Kingsport, which was forwarded to the Mayor and Board of Aldermen of the City of Kingsport explaining the project of Tengasco Pipeline Corporation that was made the subject of the resolution.

2. Name any other large volume industrial customers, of which you are aware, which are served by an interstate natural gas pipeline and would qualify to purchase gas from Tengasco under the Pilot Program established in Tenn. Code Ann. § 65-28-103.

ANSWER:

Tengasco is aware of several large volume industrial customers in Kingsport that are served, to the best of Tengasco's knowledge, by an interstate natural gas pipeline and would therefore qualify to receive transportation of gas under the Pilot Program, including AFG Glass, Willamette Paper, General Shale, and the Holston Army Ammunition Plant. Tengasco has not contracted to transport gas to or sell gas to any of these companies at the present time.

3. Provide a breakdown of the estimated cost to construct the proposed pipeline.

ANSWER:

The answer to this question contains **confidential** information and is filed under seal.

4. Provide any cost payback analysis Tengasco has conducted for the pipeline. Whether or not any such analysis has already been conducted, state how long you estimate it will take to recover the cost of construction solely through revenues received from Eastman.

ANSWER:

The answer to this question contains confidential information and is filed under seal.

5. List all customers currently being served by Tengasco. For each customer, state the average monthly volumes provided by Tengasco.

ANSWER:

The answer to this question contains **confidential** information and is filed under seal.

6. State the operating capacity of the proposed pipeline and the estimated monthly volumes to be delivered to Eastman.

ANSWER:

The answer to this question contains **confidential** information and is filed under seal.

7. What is the basis for the statement made in the Kingsport City Resolution No. 2000-92 that a public necessity requires a competing natural gas pipeline company in the City of Kingsport?

ANSWER:

The City of Kingsport has determined in the resolution that the public necessity required a natural gas pipeline company to compete with gas delivered from the East Tennessee Natural Gas Company, an interstate pipeline and the only physical source of natural gas to the City. The City determined that such competition was needed because the competition would benefit its citizens by providing an alternate supply, and resulting competition would provide those of its corporate citizens purchasing gas from suppliers delivering the gas from an interstate pipeline, with at least the possibility of better overall choices in rates along with the certainty of the alternative source for natural gas.

8. To what extent, if any, is this finding of public necessity altered by the fact that only a single customer in Kingsport will be served by this pipeline?

ANSWER:

The City of Kingsport does not agree with the premise stated in this question--that only a single customer will be served by this pipeline. In fact the Resolution expressly authorizes construction to other large volume customers that may be in the same position as Eastman Chemical Company. In any event, the competitive benefits resulting to a single customer would nevertheless fully support and would not alter the findings made in the Resolution and described in answer to No. 7 above.

9. Explain the statement made in the Amendment filed on October 12, 2000 that Kingsport City Ordinance No. 4776, dated June 6, 2000, "remains in effect subject to approval by TRA."

ANSWER:

This statement was intended only to clarify that the Ordinance No. 4776, although

it was being expressly and unequivocally withdrawn from the scope of all pleadings in this docket seeking TRA approval, it was not being generally repealed or otherwise overruled or disavowed by the City or Tengasco simply by such withdrawal from the pleading, but remained in the same posture it was in before this proceeding was filed, i.e. it has been enacted by the City and remains subject to T.C.A. § 65-4-107 requiring approval of the TRA, which approval would be sought not in this docket but in separate docket at a future time.

10. As to the proposed service to Eastman Chemical and other large volume industrial customers, pursuant to Kingsport City Resolution No. 2000-92 and any agreement entered into by Tengasco and the City of Kingsport in connection with this Resolution, will Tengasco be a "public utility" as defined in Tenn. Code Ann. § 65-4-101? Provide the basis for your answer.

ANSWER:

Tengasco Pipeline Corporation, is a "pipeline corporation" as described in TCA Section 65-28-101 [Supp. 2000], and as such shall be charged with "all duties, responsibilities, and liabilities imposed upon public utility corporations by the laws of this state, and be subject to the Tennessee regulatory authority." TCA Section 65-28-103 (a) [Supp. 2000]. By virtue of Section 65-28-103(a), Tengasco Pipeline Corporation is subject to regulation as a public utility under TCA Section 65-4-101 and other sections imposing duties, responsibilities, and liabilities upon public utilities as to the proposed service to Eastman Chemical and other large volume industrial customers pursuant to Kingsport City Resolution No. 2000-92. Tengasco Pipeline Corporation is also an "intrastate natural gas" pipeline corporation described in Subsection (b) of the statute just quoted, the Pilot Program. As a consequence of being a pipeline corporation expressly subject to regulation as a public utility under Section 65-28-103(a), and also being an "intrastate natural gas" pipeline corporation, Tengasco Pipeline Corporation is therefore an intrastate natural gas pipeline corporation subject to regulation by the Tennessee regulatory authority as a public utility and is expressly eligible to transport intrastate gas under Section 65-28-103(b).

11. Is it your position that Tenn. Code Ann. § 65-28-103 renders inapplicable the requirement, in Tenn. Code Ann. § 65-4-107, of a hearing, determination of public convenience and interest, and approval by the TRA as to the authority granted to Tengasco in Kingsport Resolution No. 2000-92? Provide the basis for your answer.

ANSWER:

The essence of the question posed by this information requested is whether it is Tengasco's position that the "Pilot Program" overrides some or all of the procedures and requirements otherwise generally required for TRA's approval of a "local option" such as the Kingsport Resolution at issue here.

Tengasco has neither raised nor addressed in any filing in this docket, the effect of the provisions of the Pilot Program (T.C.A. § 65-28-103) upon the requirements of the "local option" approval provisions of T.C.A. § 65-4-107. [Tengasco did, however take the position in earlier filings that the full-blown *certificate* provisions of Sections 65-4-200 et seq. were expressly made inapplicable by Section 65-4-207 to proceedings under Section 65-4-107, a matter no longer at issue here.] Although Tengasco has not previously taken any position on this issue, in response to the present question, it would appear that the Pilot Program could possibly be read to render inapplicable certain requirements of T.C.A. § 65-4-107; but it is Tengasco's position that such a determination is not necessary because these statutes may and should be read together so that any "local option" to authorize construction pursuant to the pilot program would conclusively constitute satisfaction of all requirements for approval by TRA under Section 65-4-107.

The basis for Tengasco's position is as follows:

The Pilot Program statute begins with forceful language that "notwithstanding any state or local law to the contrary ..." that transportation pursuant to the program may occur. Although Tengasco does not view the provisions of T.C.A. § 65-4-107 as contrary on its face to the Pilot Program , a finding by the TRA under T.C.A. § 65-4-107 that denied the transportation otherwise eligible under the Pilot Program would appear to be in direct application of the protective language allowing transportation under the Pilot Program "notwithstanding any state or local law to the contrary." However, that apparent conclusion is clouded somewhat because the Pilot Program also states that transportation pursuant to the Program is available to pipeline companies "subject to the jurisdiction of the Tennessee regulatory authority as a public utility."

It is not necessary to find that T.C.A. § 65-4-107 is "not applicable" to transportation under the Pilot Program, for a reading of these statutes exists that gives both full meaning. Reading Sections 65-28-103(b) and 65-4-107 together, if transportation under the Pilot Program and construction of required facilities is made the subject of "local option" action under T.C.A. § 68-4-207 as the City of Kingsport did here, then the eligibility of that transportation and construction under the Pilot Program should be conclusively found to justify and require the approval by the TRA under Section 107. This gives full meaning to the requirements in the Pilot Program that an eligible transporter under the Pilot Program is one "subject to regulation by the Tennessee regulatory authority as a public utility" and that such transportation shall occur "notwithstanding any state or local law to the contrary." This reading also gives full meaning to the affirmative provisions of Section 65-4-107 that approval of the local option is to be given "... when, after hearing, the authority determines that such

privilege or franchise is necessary and proper for the public convenience and properly preserves the public interest...." If a governmental entity such as the City of Kingsport determines under the local option provisions that a Pilot Program transportation project is in the interest of its citizens and authorizes the project, then the "nothwithstanding state or local law to the contrary" provisions of the Pilot Program should require approval of the TRA under Section 65-4-107 and the only showing required at hearing should be that the transportation project is pursuant to the Pilot Program statute.

BY ATTORNEY:

Cary V. Sorensen by DB with Cary V. Sorensen

Vice President and General Counsel

603 Main Avenue, Suite 500

Knoxville, Tennessee 37902

865-523-1124

865-523-9894 (facsimile)

Attorney for Tengasco Pipeline Corporation

J. Michael Billingsley and Sol

City Attorney

City of Kingsport, Tennessee

225 West Center Street

Kingsport, TN 37660-4237

423-229-9382

423-224-2417 (facsimile)

Attorney for City of Kingsport



Tengasco Pipeline Corporation

April 26, 2000

J. Michael Billingsley, Esq. City Attorney City of Kingsport, Tennessee 225 West Center Street Kingsport, TN 37660-4237

VIA FACSIMILE 423-224-2417

Re: Tengasco Pipeline Corporation Information

Dear Mr. Billingsley:

At your request, this letter is to provide you and members of the Board of Alderi en with some background information and detail concerning the proposed construction of natural gas pipeline facilities by Tengasco Pipeline Corporation ("TPC") in Kingsport, Tengassee to complete deliveries to Eastman Chemical Company of natural gas under the twenty-year contract between Tengasco, Inc., TPC's parent company, and Eastman Chemical Company. This information is in support of the resolution which is to be before the Board concerning TPC's construction of facilities to compete with deliveries of interstate gas from East Tennessee Natural Gas to certain industrial customers.

TPC owns an existing twenty-eight mile pipeline from the Swan Creek field in Mancock County, Tennessee near Sneedville and extending to Rogersville in Hawkins County. TPC will construct an additional twenty-six mile line from Rogersville to Eastman's facility at Kingsport. This line will follow a route along Highway 11-W to the westernmost poil t of the Holston Army Ammunition Plant on Highway 11-W. TPC has now received its permit from the Tennessee Department of Transportation to construct this line in the state highway right The pipeline will enter the grounds of the Holston Army Ammunitian plant of way. ("Holston Arsenal") at the closest point of Holston Arsenal to Rogersville and proceed across the grounds of the Holston Arsenal, away from the Highway, to interconnect with an existing 12" pipeline on Holston Arsenal's grounds, and will proceed to a point on Holston Arsenal on the western side of an existing railroad bridge across the Holston River. At that print, the pipeline to serve Eastman will turn to proceed directly south on the western side of the river, within the city limits of Kingsport, on to Eastman's property, and proceeding on company property near Jared Drive and interconnecting with Eastman's system near the present point where East Tennessee Natural Gas interconnects with Eastman's system.

Office (423) 523-1124 • Fax (423) 523-9894

J. Michael Billingsley, Esq. April 26, 2000 Page 2

Approximately the last three miles of this project will be in Kingsport, and we estimate this portion of the project will take about thirty days to construct once construction confunences. The construction in Kingsport will be a 12" steel pipeline and related connecting facilities and meters and will be performed by pipeline construction contractors under agreement with TPC. TPC and its contractors are fully insured and all construction and operations will be in compliance with all applicable safety regulations enforced by the Tennessee Regulatory Authority. TPC plans to begin construction of this portion of the facility as soon as possible after regulatory approvals are obtained, and not at the conclusion of the entire project. TPC desires to complete the construction in Kingsport no later than July 31, 2000 assuming all regulatory approvals are timely obtained.

TPC anticipates completing this entire project from the Rogersville area and to begin delivery of gas to Eastman no later than December 31, 2000.

TPC's pipeline project is intended to transport gas produced in Tennessee to Tennessee consumers in accordance with a pilot project enacted last year by the Tennessee levislature. A copy of the pilot program is attached for your reference and review. As can be seen from the wording of the statute, under the pilot project, intrastate gas can be transported by an interstate pipeline. Consequently, no utility district or municipal utility can lose any customer to such intrastate gas, because the only customers to whom the gas can be transported under the pilot program (unless coherwise agreed to by the district or utility) are those that have not been served by a utility district or municipality because they have been served by an interstate pipeline. Therefore, TPC will not be taking any customer from United Cities or any utility district because TPC's only cotential customers, such as Eastman, are those that have been receiving gas from an interstate pipeline. We want to be very clear on this point so that we do not cause any concern to any utility district or municipal utility about taking any of their existing customers.

The completion of this line will allow production to commence from the Swan Creek field. The wells in the field are presently shut in for lack of a market to take and use the gas. When sales commence, the severance taxes imposed by the State of Tennessee will become due on production, and when those taxes are paid by Tengasco, the community from which the gas is produced will be receiving a portion of those severance tax revenues back to local uses. So the commencement of sales is an important event not only for the landowners, Tengasco, Tengasco Pipeline, and Eastman, but all the residents in Hancock County, Tennesses, where our field is located. The tax funds received by local government will go a long way to help fund schools and other governmental activities in one of the most disadvantaged areas of the state.

J. Michael Billingsley, Esq. April 26, 2000 Page 3

In addition, I wish to inform you that in response to your inquiry and request, rengasco Pipeline Corporation is willing to enter and will enter into a franchise agreement in the form you submitted for our review. We understand that the issue of that agreement will be taken up after the resolution is approved in early May.

I trust this gives you the necessary background about our pipeline construction needed to serve Eastman Chemical. We have been in continuing contact with Mr. Charlie Sorrells and Mr. Ray Ratheal of Eastman concerning this project, and you may wish to discuss any matter raised in this letter with them. Also, feel free to call me at any time for any further information you may need.

Very truly yours,

TENGASCO PIPELINE CORPORATION

Robert M. Carter

President

cc: Mr. Charlie Sorrells

Mr. Ray Ratheal

PUBLIC CHAPTER NO. 408

HOUSE BILL NO. 1734

By Representatives Arriola, McAfee, Ulysses Jones, Cooper, Towns, Miller, pis Deflerry

Substituted for: Senate Bill No. 487

By Senators Haynes, Harger

AN ACT to amend Tennessee Code Annotated, Section 65-28-103, relaise to natural gas piceline corporations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSIE.

SECTION 1. Tennessee Code Annotated, Section 65-28-103, is inconded by designating the current language as subsection "(a)" and by adding the following the wild language to be designated as subsection "(b)":

65-28-103

(b)(1) As a pilot project through the end of the year 2001, and no pathstanding any state or local law to the contrary, any intrastate natural gas objecting corporation, subject to regulation by the Tennessee Regulatory Authority as a public jutility, may transport natural gas to end users in Tennessee only if such natural gas is produced from Tennessee wells located in any county contained within the 2nd, 4nd, 6nd, 7nd or 12nd Senatorial Districts and or in the smallest county by population locatic in the 15nd Senatorial Districts and or in the smallest county by population locatic in the 15nd Senatorial Districts and or in the smallest county by population locatic in the 15nd Senatorial District, as these districts exist on the effective date of this act, and only if the end users of such natural gas are located for the above referenced couplies. Such intrastate natural gas projetine corporations shell not transport intrastate indural gas are located for the above referenced couplies. Such end users that are served by a municipal utility or by a utility district or warm a utility district chartered service area on the effective date of this act unless:

- (A) the end user has been served by an interstate pipeline; (i)
- (B) at the option of the utility district or municipal utility, such intrastate natural gas pipeline or and user assumes any contractual obligation of the utility district or municipal utility to an interstate natural gas pipeline incurry on behalf of such end user which remains after termination of service by such and user prior to the end of the term of this contract, tariff or other arrangement pursuant to which the end user receives service.
- (2) At the option of the utility district or municipal utility, such intrastite natural gas pipeline may serve end users not now being served by a municipal utility or by a utility district or within a utility district's chartered service area. This subdivision shall not prohibit service to end users specifically authorized to be served in accompance with subdivision (1)(A) of this subsection.
- SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application and to the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring

Effective date 6/17/99

BEFORE THE TENNESSEE REGULATORY AUTHORITY NASHVILLE, TENNESSEE

IN RE: JOINT APPLICATION OF THE)	
CITY OF KINGSPORT AND TENGASCO)	
PIPELINE CORPORATION FOR)	
APPROVAL OF CITY RESOLUTIN)	
AND CITY ORDINANCE)	DOCKET NO. 00-00537
)	
)	

PROTECTIVE ORDER

To expedite the flow of filings, exhibits and other materials, and to facilitate the prompt resolution of disputes regarding confidentiality of the material, adequately protect material entitled to be kept confidential and to ensure that protection is afforded only to material so entitled, the Tennessee Regulatory Authority ("TRA") hereby orders that:

For the purpose of this Protective Order (the "Order"), proprietary or 1. "CONFIDENTIAL hereinafter referred to as information, confidential INFORMATION" shall mean documents and information in whatever form which the producing party, in good faith, deems to contain or constitute trade secrets, confidential research, development, financial statements or other commercially sensitive information, and which has been specifically designated by the producing A "Producing Party" is defined as the party creating the confidential party. information as well as the party having actual physical possession of information produced pursuant to this Order. All summaries, notes, extracts, compilations or other direct or indirect reproduction from or of any protected materials, shall be entitled to protection under this Order. Documents containing CONFIDENTIAL INFORMATION shall be specifically marked as confidential on the cover. Any document so designated shall be handled in accordance with this Order. The provisions of any document containing CONFIDENTIAL INFORMATION may be challenged under Section 11 of this Order.

- 2. Any individual or company subject to this Order, including producing parties or persons reviewing CONFIDENTIAL INFORMATION, shall act in good faith in discharging their obligations hereunder. Parties or nonparties subject to this Order shall include parties who are allowed by the TRA to intervene subsequent to the date of entry of this Protective Order.
- 3. CONFIDENTIAL INFORMATION shall be used only for the purposes of this proceeding, and shall be expressly limited and disclosed only to the following persons:
 - (a) counsel of record for the parties and other legal counsel for the parties in this case and associates, secretaries and paralegals actively engaged in assisting counsel of record in this and the designated related proceedings;
 - (b) TRA Directors and members of the staff of the TRA.

Under no circumstances shall any CONFIDENTIAL INFORMATION be disclosed to or discussed with anyone associated with the marketing of products, goods or services that may be in competition with the products, goods or services of the producing party. Counsel for the parties are expressly prohibited from disclosing

CONFIDENTIAL INFORMATION produced by another party to their respective clients, except for in-house counsel.

- 4. Prior to disclosure of CONFIDENTIAL INFORMATION to any employee or associate counsel for a party, the counsel representing the party who is to receive the CONFIDENTIAL INFORMATION shall provide a copy of this Order to the recipient employee or associate counsel who shall be bound by the terms of this Order.
- If any party or non-party subject to this Order inadvertently fails to 5. designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing the documents this failure shall not constitute a waiver of confidentiality, provided the party or non-party who has produced the document shall notify the recipient of the document in writing within five (5) days of discovery of such inadvertent failure to designate the document as CONFIDENTIAL. At that will immediately treat thesubject document as the recipients time. designate a document CONFIDENTIAL. An inadvertent failure to CONFIDENTIAL, shall not, in any way, affect the TRA's determination as to whether the document is entitled to CONFIDENTIAL status.
- 6. If any party or non-party subject to this Order inadvertently fails to designate documents as CONFIDENTIAL in accordance with the provisions of this Order when producing such documents and the failure is not discovered in time to provide a five (5) day notification to the recipient of the confidential nature of the documents referenced in the paragraph above, the failure shall not constitute a waiver of confidentiality and a party by written motion or by oral motion at a Pre-

Hearing conference or at the Hearing on the merits may request designation of the documents as CONFIDENTIAL, and if the motion is granted by the Pre-Hearing Officer, Administrative Law Judge or the Authority, the recipients shall immediately treat the subject documents as CONFIDENTIAL. The Tennessee Regulatory Authority, the Pre-Hearing Officer or Administrative Law Judge may also, at his or her discretion, either before or during the Pre-Hearing conference or hearing on the merits of the case, allow information to be designated CONFIDENTIAL and treated as such in accordance with the terms of this Order.

- 7. Any papers filed in this proceeding that contain, quote, paraphrase, compile or otherwise disclose documents covered by the terms of this Order, or any information contained therein, shall be filed and maintained with the Executive Secretary of the TRA in sealed envelopes marked CONFIDENTIAL and labeled to reflect the style of this proceeding, the docket number, the contents of the envelope sufficient to identify its subject matter and this Protective Order. The envelopes shall be maintained in a locked filing cabinet. The envelopes shall not be opened or their contents reviewed by anyone except upon order of the TRA, Pre-Hearing Officer, or Administrative Law Judge after due notice to counsel of record. Notwithstanding the foregoing, the Directors and the Staff of the TRA may review any paper filed as CONFIDENTIAL without obtaining an order of the TRA, Pre-Hearing Officer or Administrative Law Judge, provided the Directors and Staff maintain the confidentiality of the paper in accordance with the terms of this Order.
- 8. Documents, information and testimony designated as CONFIDENTIAL, in accordance with this Order, may be disclosed in testimony at

the Hearing of this proceeding and offered into evidence used in any hearing related to this action, subject to the Tennessee Rules of Evidence and to such future orders as the TRA, the Pre-Hearing Officer, or the Administrative Law Judge may enter. Any party intending to use documents, information, or testimony designated CONFIDENTIAL shall inform the producing party and the TRA, the Pre-Hearing Officer, or the Administrative Law Judge, prior to the Hearing on the merits of the case in the manner designated previously in this Order, of the proposed use; and shall advise the TRA, the Pre-Hearing Officer, or the Administrative Law Judge, and the producing party before use of the information during witness examinations so that appropriate measures can be taken by the TRA, the Pre-Hearing Officer, or the Administrative Law Judge to protect the confidential nature of the information.

- 9. Except for documents filed with the Executive Secretary of the TRA, all documents covered by the terms of this Order that are disclosed to the requesting party shall be maintained separately in files marked CONFIDENTIAL and labeled with reference to this Order at the offices of the requesting party's counsel of record and returned to the producing party pursuant to Paragraph 16 of this Order.
- 10. Nothing herein shall be construed as preventing any party from continuing to use and disclose any information (a) that is in the public domain, or (b) that subsequently becomes part of the public domain through no act of the party, or (c) that is disclosed to it by a third party, where said disclosure does not itself violate any contractual or legal obligation, or (d) that is independently developed by a party, or (e) that is known or used by it prior to this proceeding. The burden of

establishing the existence of (a) through (e) shall be upon the party attempting to use or disclose the information.

- 11. Any party may contest the designation of any document or information as CONFIDENTIAL by filing a Motion with the TRA, Pre-Hearing Officer, Administrative Law Judge or the courts, as appropriate, for a ruling that the documents, information or testimony should not be so treated. All documents, information and testimony designated as CONFIDENTIAL, however, shall be maintained as such until the TRA, the Pre-Hearing Officer, the Administrative Law Judge or a court orders otherwise. A Motion to contest must be filed not later than fifteen (15) days prior to the Hearing on the Merits. Any Reply from the Company seeking to protect the status of their CONFIDENTIAL INFORMATION must be received not later than ten (10) days prior to the Hearing on the Merits and shall be presented to the Authority at the Hearing on the merits for a ruling.
- 12. Nothing in this Order shall prevent any party from asserting any objection to discovery other than an objection based upon grounds of confidentiality. Nothing in this Order is intended to limit or expand the statutory authority of the Attorney General or the Consumer Advocate Division as expressed in T.C.A. § 10-7-504(a) titled Confidential Records, and T.C.A. § 65-4-118 titled Consumer Advocate Division.
- 13. Non-party witnesses shall be entitled to invoke the provisions of this Order by designating information disclosed or documents produced for use in this action as CONFIDENTIAL, in which event the provisions of this Order shall

govern the disclosure of information or documents provided by the non-party witness. A non-party witness' designation of information as CONFIDENTIAL may be challenged under Paragraph 11 of this Order.

- 14. No person authorized under the terms herein to receive access to documents, information, or testimony designated as CONFIDENTIAL shall be granted access until such person has complied with the requirements set forth in Paragraph 4 of this Order.
- 15. Any person to whom disclosure or inspection is made in violation of this Order shall be bound by the terms of this Order.
- 16. Upon an order becoming final in this proceeding or any appeals resulting from such an order, all the filings, exhibits and other materials and information designated CONFIDENTIAL and all copies thereof shall be returned to counsel for the party who produced (or originally created) the filings, exhibits and other materials, within fifteen (15) days. Counsel who received the filings, exhibits and other materials, designated as CONFIDENTIAL shall certify to counsel for the producing party that all the filings, exhibits and other materials, plus all copies or extracts from the filings, exhibits and other materials, and all copies of the extracts from the filings, exhibits and other materials thereof have been delivered to counsel for the producing party.
- 17. After termination of this proceeding, the provisions of this Order relating to the confidential nature of CONFIDENTIAL DOCUMENTS, information and testimony shall continue to be binding upon parties herein and their officers,

employers, employees, agents, and/or others for five years unless this Order is vacated or modified.

18. Nothing herein shall prevent entry of a subsequent order, upon an appropriate showing, requiring that any documents, information or testimony designated as CONFIDENTIAL shall receive protection other than that provided herein.

19. That any party aggrieved with the Authority's decision in this matter may file a petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.

Richard Collier, Pre-Hearing Officer

ATTEST:

K. David Waddell, Executive Secretary

APPROVED FOR ENTRY:

D. Billya Sanders

D. Billye Sanders

Waller Lansden Dortch & Davis A Professional Limited Liability

Company

Attorney for Tengasco Pipeline

Corporation

Cary V. Jorensen by DB will Cary V. Sorensen

Vice President and General Counsel

Tengasco Pipeline Corporation

Attorney for Tengasco Pipeline

Corporation

J. Michael Billingsley by DBS
J. Michael Billingsley

City Attorney

Attorney for the City of Kingsport

Joe A. Conner

Baker, Donelson Bearman & Caldwell, P.C. Attorney United Cities Gas Company

Misty Smith Kelly

9

Baker, Donelson Bearman & Caldwell, P.C. Attorney United Cities Gas Company

$\underline{\mathbf{AFFIDAVIT}}$

STATE OF
COUNTY OF
The undersigned, being duly sworn, deposes and says:
1. I am employed or retained by, who is
a party in Docket No. 00-00537.
2. I have read the Protective Order of the Tennessee Regulatory
Authority dated, 2000 respecting disclosure of Confidential
Information. I agree to be bound by the terms thereof, including the requirements
that the information not be disclosed and not be used other than in this proceeding
and I understand that unauthorized disclosure of Confidential Information
constitutes a violation of the Order and may subject me to an action for injunctive
relief and/or damages.
FURTHER AFFIANT SAITH NOT.
Signature:
Name of Affiant:
SWORN TO AND SUBSCRIBED before me this day of
2000.
NOTARY PUBLIC
My Commission Expires:

CERTIFICATE OF SERVICE

I, D. Billye Sanders, hereby certify that a true and correct copy of the foregoing was delivered by facsimile or U.S. Mail, postage prepaid to the counsel of record listed below on the day of December, 2000:

Joe A. Conner, Esq.
Misty Smith Kelley, Esq.
Baker, Donelson, Bearman & Caldwell, PC
1800 Republic Centre
633 Chestnut Street
Chattanooga, Tennessee 37450
ATTORNEYS FOR UNITED CITIES GAS COMPANY

D. Billye Sander